

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT DAYTON**

JAMES E. WASHINGTON,	:	Case No. 3:19-cv-00402
<i>doing business as</i>	:	
Sales Pointe Realtors,	:	District Judge Douglas R. Cole
	:	Magistrate Judge Sharon L. Ovington
Plaintiff,	:	
	:	
vs.	:	
	:	
VENDORS RESOURCE	:	
MANAGEMENT, et al,	:	
	:	
Defendants.	:	

ORDER

This case is before the Court upon several matters. First, Plaintiff has filed Notices of his First Sets of Interrogatories and Requests for Production. (Doc. #s 9-10, 15-23). These discovery requests are premature: “A party may not seek discovery from any source before the parties have conferred as required by Rule 26(f)” Fed. R. Civ. P. 26(d)(1). Rule 26(d)(1)’s possible exceptions do not apply in the present circumstances. Because the parties Rule 26(f) Report is not due until February 14, 2020 (Doc. #7), Defendants are not required to respond to Plaintiff’s present discovery requests.

Second, Plaintiff has filed a Motion for Summary Judgment (Doc. #34) in which he contends that Defendant Vendor Resource Management is in default for not filing an Answer to his Complaint. This is incorrect. Defendant Vendor Resource Management’s Answer (or other response) to Plaintiff’s Complaint is not due until February 5, 2020.

Consequently, this Defendant is not in default. In addition, summary judgment under Fed. R. Civ. P. 56 does not provide a procedure or remedy against a party in default. Plaintiff's Motion therefore lacks merit.

Lastly, Plaintiff has filed a Motion for Trial by Jury (Doc. #6). At this early stage of the case, it is premature to determine if Plaintiff is entitled to a jury trial.

IT IS THEREFORE ORDERED THAT:

1. Defendants are not required to respond to Plaintiff's present discovery requests (Doc. #s 9-10, 15-23);
2. Plaintiff's Motion for Summary Judgment (Doc. #34) is DENIED; and
3. Plaintiff's Motion for Trial by Jury (Doc. #6) is DENIED without prejudice to renewal.

January 31, 2020

s/Sharon L. Ovington

Sharon L. Ovington
United States Magistrate Judge